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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,178	10/29/2003	Katerina Leftheris	QA0237 Div 1	6531
23914	7590	01/21/2009		
LOUIS J. WILLE BRISTOL-MYERS SQUIBB COMPANY PATENT DEPARTMENT P O BOX 4000 PRINCETON, NJ 08543-4000			EXAMINER FRYOR, ALTON NATHANIEL	
			ART UNIT	PAPER NUMBER
			1616	
			NOTIFICATION DATE	DELIVERY MODE
			01/21/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/696,178

Applicant(s)

LEFTHERIS ET AL.

Examiner

ALTON N. PRYOR

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

Applicant's arguments filed 10/2/08 have been fully considered but they are not persuasive. See discussion below. Previous rejections not address below are withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,6 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt on record. Hunt teaches the pyrrolotriazine where Y is absent; R1 = H; X = -NR11C=O-; R2,R3 = H,Me; ZR5 = NH; R4 = carbmyl-alkoxy substituted phenyl; R13 = alkyl and R11 = H or alkyl. See abstract, column 1 lines 21-36, column 2 line 52 - column 2 line 40, column 4 lines 17 - 33, claim 1. Hunt's pyrrolotriazine compound is equivalent to instant compound where R1 = H; R2, R3 = H, methyl; X = -NR10C=O-; R10 = H or alkyl; ZR5 = NH; and R4 = carbmyl-alkoxy substituted phenyl. Hunt teaches that pyrrolotriazine compounds of his invention can be used in methods of treating cancer, psoriasis, arthritis, inflammation, autoimmune disease, and diabetic retinopathy. See column 6 line - column 7 line 10. These are conditions associated with p38 kinase activity as indicated in instant claims 7-8. Hunt does not exemplify methods of treating said conditions with his compound described above. However, it would have been obvious to one having ordinary skill in the art to have employed the compound

described in methods of treating said conditions. One would have been motivated to do this since Hunt states that his invention is based on the discovery that certain pyrrolotriazines are inhibitors of protein kinases. See column 6 lines 44-45.

Response to Applicant's arguments

Below the Applicants argue that the compounds used in the instant method claims are unobvious over Hunt's compounds used in the same method as presently claimed. The Examiner disagrees with the Applicants. Although the claims are directed to a method of treating condition(s), since both Hunt and instant invention are directed to treating the same condition(s), the argument centers around whether Hunt's compounds used in treating the condition(s) read on instant compounds employed to treat the same condition(s) as claimed.

Applicants argue:

- 1) Hunt does not exemplify compounds with current definition of $-Z(R_4)(R_5)$ and especially does not describe the ortho methyl group as claimed. Hunt defines the values of R_4 and R_5 as being selected from the same substituents.
- 2) Hunt's compounds target tyrosine kinase not p38 kinase. Tests for at least 5 compounds from the present invention, i.e. compounds in Examples 70,97,111,114 and 119 show good activity for p38. Example 70 in the present invention was tested but showed no meaningful activity against tyrosine kinases as described in Hunt.
- 3) Hunt does not teach a description of a subgenus that describes the compounds disclosed in the instantly claimed invention. In amendment filed 4/9/08, the Applicants argue that Hunt the compounds exemplified by Hunt teach away from the

present invention as they have a different subgenus than compounds used in the instant invention.

The Examiner argues:

1) Hunt suggests the instant $-Z(R4)(R5)$ structural definition. Hunt teaches that $ZR5 = NH$, $R4 =$ carbmyl-alkoxy substituted phenyl (column 3 line 10, column 3 lines 23-24, column 4 lines 23-33). This teaching in Hunt makes obvious the instant definition of $-Z(R4)(R5)$. Note it is not necessary for a reference to exemplify a compound in order to make the compound obvious.

2) The Examiner reiterates that none of the compounds (Examples 70,97,111,114 and 119) tested for p38 kinase activity possessed the claimed structural definition for $-ZR4R5$.

3) Hunt generically discloses instant compounds and therefore instant compounds are made obvious over Hunt absent a showing of unexpected data. Note, Hunt does not have to exemplify claimed compounds in order to make the claimed compounds obvious.

For the above reasons the rejection over Hunt is maintained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alton N. Pryor/

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Primary Examiner, Art Unit 1616